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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,920	11/19/2001	Michimune Kohno	7217/65966	9369

7590 12/15/2004	**EXAMINER**
COOPER & DUNHAM LLP	PUENTE, EMERSON C
1185 Avenue of the Americas	

ART UNIT	PAPER NUMBER
2113	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *16 September 2004*.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-8 and 10* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-8 and 10* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☒ All b) ☐ Some * c) ☐ None of:

      1. ☒ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

This action is made **Final.** Claims 1-8 and 10 have been examined. Claim 9 has been

canceled.

Examiner points out that applicant's amendment fails to comply with the revised 37 CFR

1.121, which is required as of July 30, 2003. More specifically, applicant has failed to correctly

mark up changes to the claims. In the future, the examiner will send out a notice of non-

compliant amendment for failure to comply with the revised 37 CFR 1.121.

Claim Objections

Claims 1 and 10 are objected to because of the following informalities:

In regards to claim 1, please change "...of the plurality of components the

dependency..." to "...of the plurality of components, the dependency..." (see line 12 of claim).

In regards to claim 1, please change "...is requested a status..." to "...is requested, a

status..." (see line 16 of claim).

In regards to claim 10, please change "record medium" to "recording medium" (see line

22 of claim).

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3,5-7, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by US

Patent No. 6,708,227 of Cabrera et al. referred hereinafter "Cabrera".

In regards to claim 1, Cabrera discloses a data processing apparatus having a central

processing unit and a memory, the apparatus comprising:

a driver for controlling operations of writing to and reading from a recording medium

(see column 4 lines 49-55);

a checkpoint manager unit for communicating between the plurality of components and

the driver (see column 4 lines 30-35); and

a status storing database unit for storing a dependency relationship between the plurality

of components (see column 8 line 66 to column 9 line 7); and

when a status-storing process is requested by a component of the plurality of components,

the dependency relationship of said component, the dependency relationship of said component

from said status storing database unit and stored data is stored as a snapshot file in said recording

medium. Cabrera discloses a backup application B requesting for snapshot service (see column 9

lines 20-25) and the snapshot set with identification information being return to application B

(see column 9 lines 35-42); and

when a status-recovering process is requested, a status of said component is recovered

using said snapshot file stored in said recording medium in a sequence based on the dependency

relationship stored in said recording medium. Cabrera discloses snapshot services used to aid in

efficient backup, restore, and recovery service, indicating a status recovering process (see

column 4 lines 30-33). Since the identification information (dependency relationship) stores the

snapshot set ID, individual snapshot IDs contained in the snapshot set and the time to which the

snapshot sets relate (column 9 lines 10-15), the status of said component is recovered based on

the dependency relationship stored in said recording medium. Furthermore, Cabrera discloses

the VSSC communicating with SP1 to prepare a snapshot of V1 (see column 9 lines 50-60) and

then communicates with SP1 to prepare a snapshot of V2, thus indicating using said snapshot file

stored in said recording medium in a sequence.

In regards to claim 2, Cabrera discloses

wherein said snap shot file includes a tag having a name or identification of said

component (see column 8 line 66 to column 9 line 2).

In regards to claim 3, Cabrera discloses

wherein said status-storing process and said status recovering process call a function

existing in a particular address for each of said component. It is inherent to call a function

existing in a particular address for each component because a function at a particular address

needs to be called for the processes to run. Otherwise, the status-storing process and said status

recovering process would not occur.

In regards to claim 5 and 10, Cabrera discloses:

controlling writing to and reading from a recording medium, said controlling performed

by a driver (see column 4 lines 49-55);

communicating between the plurality of components and the driver by using a checkpoint

manager unit (see column 4 lines 30-35); and

storing a dependency relationship between the plurality of components in a status storing

database unit (see column 8 line 66 to column 9 line 7); and

storing the dependency relationship of a component of a plurality of components and

stored data as a snap shot file in said recording medium when a status-storing process is

requested by the component. Cabrera discloses a backup application B requesting for snapshot

service (see column 9 lines 20-25) and the snapshot set with identification information being

return to application B (see column 9 lines 35-42); and

recovering a status of said component using said snapshot file stored in said recording

medium in a sequence based on the dependency relationship stored in said recording medium

when a status recovering process is requested. Cabrera discloses snapshot services used to aid in

efficient backup, restore, and recovery service, indicating a status recovering process (see

column 4 lines 30-33). Since the identification information (dependency relationship) stores the

snapshot set ID, individual snapshot IDs contained in the snapshot set and the time to which the

snapshot sets relate (column 9 lines 10-15), the status of said component is recovered based on

the dependency relationship stored in said recording medium. Furthermore, Cabrera discloses

the VSSC communicating with SP1 to prepare a snapshot of V1 (see column 9 lines 50-60) and

then communicates with SP1 to prepare a snapshot of V2, thus indicating using said snapshot file

stored in said recording medium in a sequence.

In regards to claim 6, Cabrera discloses:

wherein said snap shot file includes a tag having a name or identification of said component (see column 8 line 66 to column 9 line 2).

In regards to claim 7, Cabrera discloses:

wherein said status-storing process and said status recovering process call a function existing in a particular address for each of said component. It is inherent to call a function existing in a particular address for each component because a function at a particular address needs to be called for the processes to run. Otherwise, the status-storing process and said status recovering process would not occur.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4 and 8 are rejected under 35 U.S.C. **103(a)** as being unpatentable over Cabrera.

In regards to claim 4 and 8, Cabrera fails to explicitly disclose:

wherein said recording medium is a portable recording medium.

However, Cabrera also teaches the use of removable optical disks, magnetic cassettes, flash memory cards, etc, indicating portable recording mediums, to store information (see column 6 lines 45-51).

It would have been obvious to one of ordinary skill in the art at the time the invention was made wherein the recording medium is a portable recording medium. A person of ordinary

skill in the art would have been motivated because Cabrera discloses having snapshots returned

to the backup application, indicating storage of snapshots to a storage medium (see column 9

lines 40-42), and removable optical disks, magnetic cassettes, flash memory cards, etc, which

constitutes as portable recording mediums, as per secondary teachings of Cabrera, enable storage

of the snapshots.

Response to Arguments

Applicant's arguments filed September 16, 2004 have been fully considered but they are

not deemed to be persuasive.

In response to applicant's argument on page 7 that cites: "It is respectfully submitted that

Cabrera et al. is completely silent concerning storing dependency relationship among the various

components in the system in a status-storing database for subsequently determining the sequence

of the recording of the snapshot file in the record medium, as taught in the present invention and

as recited in the amended claims" examiner respectfully disagrees.

Nowhere in the claim is there the limitation for "subsequently determining the sequence

of the recording of the snapshot file in the record medium". Rather, the claim limitation cites

"when a status-recovering process is requested, a status of the component is recovered using said

snapshot files stored in said recording medium in a sequence based on the dependency

relationship stored in a recording medium". Cabrera discloses snapshot services used to aid in

efficient backup, restore, and recovery service, indicating a status recovering process (see

column 4 lines 30-33). Since the identification information (dependency relationship) stores the

snapshot set ID, individual snapshot IDs contained in the snapshot set and the time to which the

snapshot sets relate (column 9 lines 10-15), the status of said component is recovered based on the dependency relationship stored in said recording medium. Furthermore, Cabrera discloses the VSSC communicating with SP1 to prepare a snapshot of V1 (see column 9 lines 50-60) and then communicates with SP1 to prepare a snapshot of V2, thus indicating said snapshot file stored in said recording medium in a sequence. Examiner maintains his rejection.

Conclusion

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emerson C Puente whose telephone number is (571) 272-3652. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Robert W Beausoliel can be reached on (571) 272-3645. The fax phone number for

the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (571) 272-2100.

Emerson Puente
12/8/04

ROBERT BEAUSOLIEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100